

REMARKS

Claims 1-5, 10-13, 15, 16 and 43 were rejected over Patent No. 5,818,132 to Konotchick under 35 U.S.C. 102(b), while claims 6-8, 17, 18, 48-54, 56 and 57 were rejected under 35 U.S.C. 103(a) over Konotchick in view of Patent No. 5,775,169 to Solomon et al. Konotchick was cited as disclosing a dynamic magnet system with a support structure and a plurality of magnets in polar opposition, with the difference in polarity being a mutually different property corresponding to the claim limitation of "at least some of the magnets having mutually different properties".

Applicants respectfully disagree with this characterization of Konotchick. Opposing polarities between multiple magnets is not a question of the magnets' properties, but of their relative orientations. How a magnet is positioned by the user is not a "property" of the magnet. For example, two magnets with completely identical properties can be positioned in polar opposition to each other, but that does not make their properties different. If one of two magnets were turned around so that the magnets were in polar alignment rather than polar opposition, the two magnets would still be exactly the same and have exactly the same properties; only their positions or orientations would have changed. As another example, if a person does an about face and faces in the opposite direction, the person is still the same and will retain all of his or her "properties" prior to facing about.

This meaning of the term "properties" is consistent with both the specification and the usual dictionary definition. Examples of different "properties" given in the speci-

fication are different magnetic strengths and different sizes. These attributes both remain the same for a given magnet, regardless of its orientation. The applicable definition of "property" in Random House Webster's College Dictionary, 1998, Random House, Inc., is "6. an essential or distinctive attribute or quality of a thing: *the chemical properties of alcohol.*" Under this standard definition, the orientation of an object would not be a "property"; it can be changed at will without changing the object itself. Thus, Konotchick does not disclose magnets with different "properties".

With respect to claim 2, the statement is made that "while the magnets of Konotchick appear to be similar except for the polarity, no manufacturing operation creates identical products. The magnets will vary in strength around a bell curve as described in statistical textbooks." The stated position apparently is that, because of manufacturing variations, most magnets which have nominally equal strengths or sizes will actually differ in these properties. To account for this possibility, claims 1, 2, 4, 48, 49 and 51 have been amended to require that the magnets have "substantially" different properties, such as magnetic strength (claims 2 and 49) or size (claims 4 and 51). The definition of "substantial" in the dictionary cited above is "of ample or considerable amount, quantity, size, etcetera." Thus, the use of the term "substantially different" in these amended claims would exclude differences in properties, due to manufacturing tolerances, between two magnets which have nominally equal properties. "Expressions such as "substantially" are used in patent documents when warranted by the nature of the invention, in order to accommodate the minor

variations that may be appropriate to secure the invention." Verve, LLC v. Crane Cams, Inc., 311 F.3d 1116, 1120 (Fed. Cir. 2002).

This amendment should eliminate any question as to the patentability of the claims rejected over Konotchick, either by itself or in combination with Solomon et al. With respect to Solomon et al., it should be noted that its ferrofluid bearing/seal is between an outer housing 40 and a rotating shaft 55. There is no suggestion of the use of ferrofluid in connection with moving magnets. In any event, the patentability of their parent claims over Konotchick extends to the dependent ferrofluid claims as well.

Claims 9-14, 19-33, 55 and 58 were objected to as being dependent upon a rejected base claim, but were found to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 9, 14, 33, 55 and 58 have been rewritten accordingly. Claims 19 and 29 were already in independent form. Accordingly, they and their respective dependent claims 20-28 and 30-32 have not been further amended. New claims 65-75 have been added, dependent respectively upon claim 1 and the claims amended from dependent to independent form, directed towards a conductor in which an electrical signal is induced by movement of the magnets (claims 65, 67, 69, 72 and 74) and an operating system powered by the signal (claims 66, 68, 70, 71, 73 and 75). The dependency of claim 43 has been changed to newly independent claim 33, and a typographical error has been corrected in claim 13.

The title of the application has been amended to more accurately reflect the invention as defined in the present claims.

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All of the claims are believed to be in proper form for allowance, and a Notice of Allowance is respectfully requested.

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